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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,502	11/20/2003	Phal Jin Lee	9988.070.00-US	5618
30827	7590	06/29/2007	EXAMINER	
MCKENNA LONG & ALDRIDGE LLP			PERRIN, JOSEPH L	
1900 K STREET, NW			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20006			1746	
MAIL DATE		DELIVERY MODE		
06/29/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/716,502	LEE, PHAL JIN	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 April 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 2-7 is/are allowed.
- 6) Claim(s) 1 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. <u>20070622</u> .                           |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
|   | 6) <input type="checkbox"/> Other: _____.                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 05 April 2007 have been fully considered but they are not persuasive.
2. After careful consideration of the claim construction of claim 1 upon applicant's submission of the newly added claims language, the amendment is considered to read on the prior art of record for at least the following reasons. The optional language "if" in the draining step is considered to render the draining step and all steps dependent thereon (i.e. the supplying and executing steps) as optional language that suggests or makes optional but does not require steps to be performed does not limit the scope of a claim or claim limitation (see MPEP 2106(II)(C)). Accordingly, the only required step is the sensing step. Moreover, the optional languages renders the claims rejectable under 35 USC §112 since there is no active step relating to the claimed siphoning of the preamble.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:
  - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 1, applicant's newly amended preamble of controlling a washing machine "to prevent siphoning" is considered new matter because the scope of the amended claim, which reads on preventing siphoning in a washing machine with or without an anti-siphoning device, is broader than the original disclosure as filed which only provides preventing siphoning in a washing machine without an anti-siphoning device. This can be clearly seen throughout the original disclosure as filed. Applicant is urged to amend the preamble to clearly and concisely claim their invention relative in scope with the original disclosure such as "controlling a washing machine having no anti-siphoning device to prevent siphoning" which is clearly supported and enabled by the original disclosure as filed.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "to prevent siphoning" in the preamble renders the claim indefinite because there are no positively recited claims directed to preventing siphoning. Clarification and correction are required.

***Claim Rejections - 35 USC § 102***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,257,027 to IMAI either alone (§102/103) or in view of (§103) either U.S. Patent Nos. 4,418,712 & 4,380,243 to BRALEY, U.S. Patent Nos. 5,713,385 & 5,592,964 to TRAYLOR, U.S. Patent No. 5,199,455 to DLOUHY, U.S. Patent No. 4,151,864 to THURMAN, or U.S. Patent No. 2,593,752 to HABERSTUMP. IMAI discloses controlling a washing machine by sensing a current level of water remaining in the washing machine and discharging the water if the sensed water level exceeds a “predetermined substantive amount” (see col. 16, lines 49-53 disclosing sensing a level of water, such being readable on applicant’s claim language). Regarding the “to prevent siphoning” language in the preamble, since there are no positively recited steps of preventing siphoning due to the fact that applicant’s newly added language renders the “draining”, “supplying” and “executing” steps as optional steps (see above) the position is taken that such language amounts to intended use and IMAI would at least have a controllable draining means capable of performing this intended use. The Examiner notes that the use of anti-siphoning devices are common knowledge in the washing machine art for the well known purpose of preventing sewage lines from backflowing into the washing machine during draining.

Art Unit: 1746

9. Even if, *arguendo*, one were to argue that preventing siphoning is not inherently or implicitly taught in IMAI, the prior art is replete with the use of anti-siphoning devices for preventing sewage lines from backflowing into the washing machine during draining. See, for instance, the entire disclosures of BRALEY '712, BRALEY '243, TRAYLOR '385, TRAYLOR '964, DLOUHY, THURMAN or HABERSTUMP, which are directed to the use of anti-siphoning devices in washing machines which prevent sewage lines from backflowing into the washing machine during draining. Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the washing machine of IMAI with an anti-siphoning device as taught in the aforementioned references for the purpose of preventing sewage lines from backflowing into the washing machine during draining.

10. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over RUHL either alone (§102/103) or in view of (§103) either BRALEY '712, BRALEY '243, TRAYLOR '385, TRAYLOR '964, DLOUHY, THURMAN or HABERSTUMP. RUHL discloses controlling a washing machine by sensing a remaining water level (see col. 1, lines 51-63). Regarding the "to prevent siphoning" language in the preamble, since there are no positively recited steps of preventing siphoning due to the fact that applicant's newly added language renders the "draining", "supplying" and "executing" steps as optional steps (see above) the position is taken that such language amounts to intended use and RUHL would at least have a controllable draining means capable of performing this intended use. The

Art Unit: 1746

Examiner notes that the use of anti-siphoning devices are common knowledge in the washing machine art for the well known purpose of preventing sewage lines from backflowing into the washing machine during draining.

11. Even if, *arguendo*, one were to argue that preventing siphoning is not inherently or implicitly taught in IMAI, the prior art is replete with the use of anti-siphoning devices for preventing sewage lines from backflowing into the washing machine during draining.

See, for instance, the entire disclosures of BRALEY '712, BRALEY '243, TRAYLOR '385, TRAYLOR '964, DLOUHY, THURMAN or HABERSTUMP, which are directed to the use of anti-siphoning devices in washing machines which prevent sewage lines from backflowing into the washing machine during draining. Therefore, the position is taken that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the washing machine of RUHL with an anti-siphoning device as taught in the aforementioned references for the purpose of preventing sewage lines from backflowing into the washing machine during draining.

### ***Allowable Subject Matter***

12. Claims 2-7 are allowed.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1746

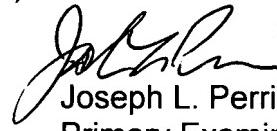
14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph L. Perrin, Ph.D. whose telephone number is (571)272-1305. The examiner can normally be reached on M-F 7:00-4:30, except alternate Fridays.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael E. Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1746

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Joseph L. Perrin, Ph.D.  
Primary Examiner  
Art Unit 1746

JLP